IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5068 OF 2006

Mukund Parshuram Dixit & Ors. ...Petitioners

Vs.

The State of Maharashtra & Ors. ...Respondents

Mr.G.S.Godbole with Smt.Rutuja Ambekdar for the Petitioners.
Mrs.M.P.Thakur, A.G.P. for Respondent Nos.1 to 3.
Mr.Deepak R.More i/b.Mr.Ajay Suryawanshi for Respondent No.4.

CORAM :- B.H.MARLAPALLE &
NARESH H.PATIL,JJ.

DATE : 13TH OCTOBER, 2006

P.C.

1. This Petition filed under Article 226 of the Constitution challenges the Award passed way back on 23rd September,1986 by the Land Acquisition Officer under Section 11-A of the Land Acquisition Act,1894. (the Act for short). By the said Award, the Petitioner's land adm.73 Rs. was acquired and the compensation amount was determined at Rs.6,69,097/-. Notice under Section 12(2) of the Act was issued on 4th November,1986 and immediately thereafter the Petitioners filed Special Civil Suit No.941 of 1986 in which they obtained stay. This suit was finally dismissed as not maintainable on 11th March,1997. Consequently, the plaint was returned as the Court lacked the jurisdiction to entertain such suit. This Petition has been filed on 1st August,2006 challenging the communication dated 7th July,2006 issued by the

Land Acquisition Officer and addressed to the Petitioners. By the said communication, the Petitioners were called upon to submit any further documents whether any Appeal was preferred by them after the plaint of the suit was returned in the year 1997 and if there were no such documents regarding stay etc. they were called upon to remain present on 25th July,2006 to handover the possession of the subject land located in the territory of village Pimpari Vagheri Panchayat (Survey No.210/2A). The record placed before us by the Special Land Acquisition Officer as well as the Respondent No.4 Corporation shows that the possession has been taken over on 5th August,2006.

2. As per Mr.Godbole the date of the Award stated to be 23rd September,1986 is not the correct date and unless the record was seen there is every reason to believe that to come out of the clutches of the proviso incorporated in Section 11-A by the Amendment Act,1984 of the Act, the said manipulation has been done. We do not find any force in these submissions and moreso because, we have perused the record submitted by the learned A.G.P. After the Award was passed on 23rd September,1986, as noted earlier, the Petitioner was issued a notice under Section 12(2) of the Act on 4th November,1986. Before the Award was passed, the Special Land Acquisition Officer addressed a letter dated 6th August,1986 to the Respondent No.4

calling upon to deposit an amount of Rs.6,89,304/- towards the compensation payable to the land owners and in the said letter it was also made clear that the final Award was to be declared on 24rd September,1986 or prior to the said date. In response, the Corporation deposited the money, as the land was sought to be acquired for it. On 12th November,1986, the Special Land Acquisition Officer approached the Director Publicity for publication of the news in the local news papers. On 13rd September,1991, 11th October,1991 and 13rd October,1991, letters were sent to the Petitioners by RPAD calling upon them to collect the compensation amount. The record also shows that on 12th February,1987, an amount of Rs.6,89,000/- has been deposited by the Special Land Acquisition officer with the Government Treasury towards the compensation payable for the subject land pursuant to the Award under challenge. It was contended by Mr.Godbole that as per the proviso incorporated below Section 11 of the Act by the State of Maharashtra, the Award could not have been final unless the Collector had granted his approval. He therefore, submitted that the Award dated 23rd March,1986 cannot be treated to be final unless the approval granted by the Collector is also placed on record and the said approval is prior to 23rd September,1986. The proviso added by the State of Maharashtra below Section 11 of the Act reads as under:-

"Provided that no Award allowing compensation exceeding such amount as the State Government may by its order specify shall be made by the Collector without being prior approval by the State Government or such Officer of the State Government may appoint in this behalf."

3. Admittedly, in the instant case, the compensation was less than Rs.10,00,000/- and therefore, it was not necessary for the collector to approach the State Government for its prior approval.

4. We have also noted that the suit of the Petitioners was dismissed as not maintainable in March,1997, the Petitioners kept mum for more than nine years and challenged the Award in this Petition belatedly. The reasons furnished for this delay cannot be accepted to entertain this Petition, even otherwise at this stage.

5. The Petition therefore fails at the threshold and the same is hereby rejected summarily.

(NARESH H.PATIL,J.) **(B.H.MARLAPALLE,J.)**